

**Staff Report**



**Zoning and Land Regulation Committee**

Questions? Contact Majid Allan at 267-2536.

Public Hearing: **August 27, 2019**

Zoning Amendment Requested: (See associated rezone petition #11468)

**Conditional Use Permit (CUP) for Religious Uses**

Size: **10 Acres**

Survey Required: **No**

Reason for the request:

**To allow for a place of meditation, worship, and community gathering for celebrations and religious events for a congregation of up to 50 on an existing rural residential parcel**

**Petition CUP 02477**

Town/Section:

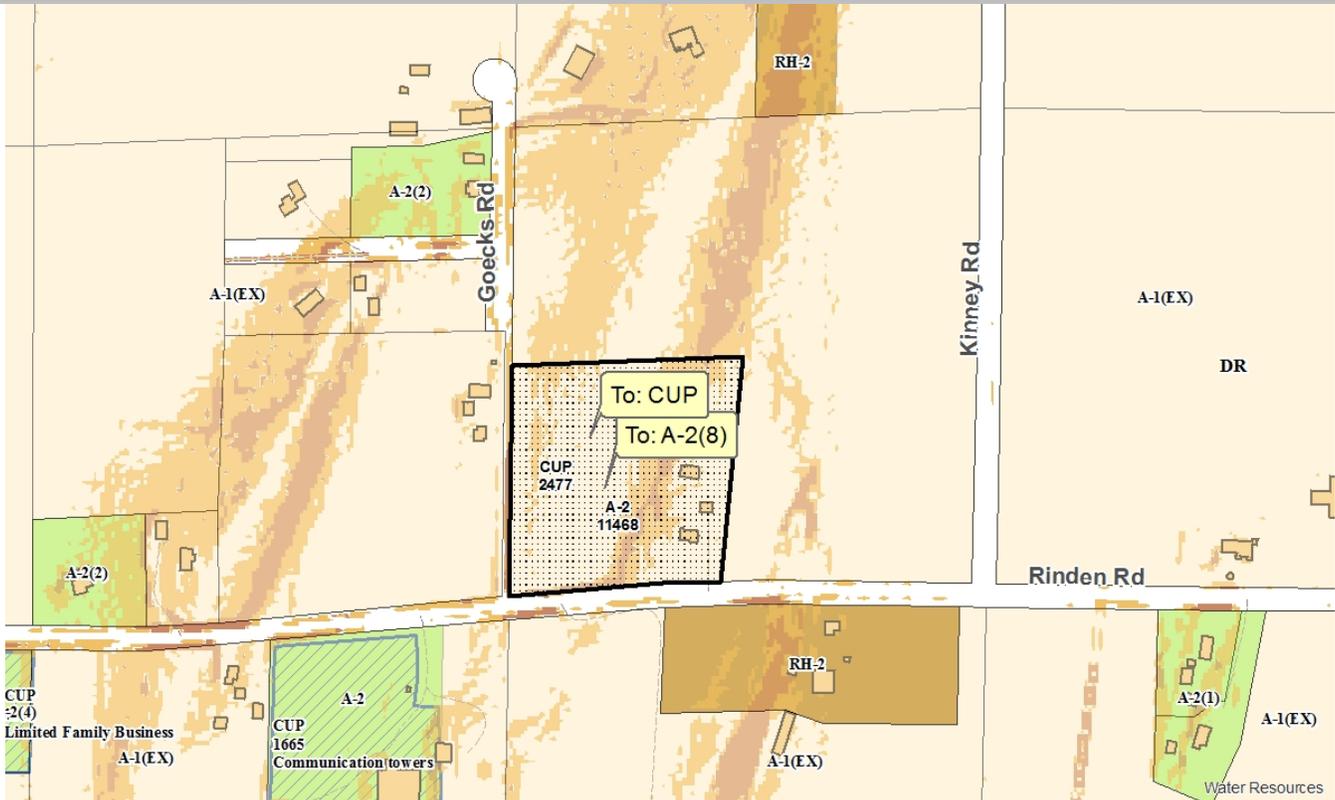
**PLEASANT SPRINGS, Section 3**

Applicant

**OUNLA THONGSAVANH**

Address:

**2154 Rinden Road**



**DESCRIPTION:** The applicant is requesting approval of a Conditional Use Permit (CUP) to allow religious uses on the 10-acre property. Associated rezone petition 11468 would provide zoning compliance for the existing residential parcel and enable this CUP application. The applicant proposes to convert an existing agricultural accessory building for use as a Laos Buddhist Temple for a congregation of up to 50 parishioners. Primary hours of operation of the temple would be Saturday and Sunday 10am-7pm. In addition to worship, picnicking and other ancillary activities may take place on the property.

**CONDITIONAL USE PERMIT PROCESS:** Conditional uses are those uses which, because of their unusual nature and potential for impacts on neighboring lands, public facilities, the environment or general welfare, warrant special consideration and review. The zoning ordinance includes specific requirements and standards for review and approval of conditional use permits.

In order to obtain a Conditional Use Permit, an applicant must provide **substantial evidence** to demonstrate that the application, and all requirements and conditions established by the county relating to the conditional use, are or shall be satisfied. Substantial evidence means, *“facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.”*

Prior to granting or denying a conditional use, the zoning committee shall make written findings of fact based on evidence presented and issue a determination whether the proposed conditional use, with any recommended conditions, meets all of the following standards:

- a. That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare;
- b. That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use;
- c. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
- d. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made;
- e. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;
- f. That the conditional use shall conform to all applicable regulations of the district in which it is located.

The zoning committee must deny a conditional use permit if it finds that the standards for approval are not met, and must approve if it finds that the standards for approval are met. The decision to approve or deny a conditional use permit must be supported by substantial evidence. Any conditions imposed must be based on substantial evidence, related to the purpose of the ordinance, reasonable, and, to the extent practicable, measurable.

#### **RELEVANT FACTS & INFORMATION**

Location, size, existing use and characteristics of subject property: The property is located in Section 3 of the town of Pleasant Springs and totals approximately 10 acres. Existing uses of the property are residential and agricultural / open space. The property consists of approximately 50 percent agricultural land (cropland), 35 percent forest, and 15 percent residential / yard. Surrounding land uses include agriculture / open space and scattered rural residences. No sensitive environmental features are observed. No new structural development is proposed. There is an area of steep slope topography over 12 percent grade on the property which coincides with the forested area and appears to be a glacial drumlin. The forest and hill serve as a buffer between the area where the religious uses would take place and the existing nearby residences to the east along Goecks Road.

Current zoning and applicable district regulations: Current zoning is A-1EX but a change is proposed to the A-2(8) district. Religious uses are listed as a conditional use in the A-2(8) district. The property is slated to transition to the RR-8 Rural Residential zoning category when the town adopts the new county zoning code. Religious uses are also listed as a conditional use in the RR-8 district. If approved, the CUP will carry forward and remain in effect upon town adoption of the new zoning ordinance.

Utilities, access, drainage, and other necessary site improvements: The applicant has submitted information indicating that an existing agricultural accessory building will be modified for use as a Buddhist Temple. No other improvements are planned at this time. Parking for up to 25 vehicles will be installed. No new point of access is proposed. Sanitary facilities will be provided by porta-potties, though future addition of indoor restroom facilities may be provided. Trash services will be provided through Peliterri waste systems. There will be no outdoor storage, no outdoor loudspeakers, and a minimal amount of outdoor lighting will be added to allow illumination for a future parking lot. A small ground sign will be installed. The applicant indicates he will work with the town on any site improvements deemed necessary to ensure safe ingress/egress to the property.

Operations Plan: Primary hours of operation will be 10am-7pm, Saturdays and Sundays. There may be 2-5 Buddhist Monks ("employees") on site. Applicant anticipates a congregation of 30 – 50 people attending services and/or other religious community functions. Ancillary activities may include picnics or other religious celebrations.

**STAFF ANALYSIS:**

Issues that may be commonly associated with religious facilities include traffic and noise. The applicant indicates that the anticipated number of congregants is fewer than 30 and primary hours of operation are between 10am-7pm Saturdays and Sundays. Property characteristics, including its relatively secluded location and presence of natural screening along property boundaries, should serve to limit the potential for negative impacts to neighbors. The proposal appears reasonably consistent with town plan policies which seek primarily to preserve agriculture and the rural character of the town.



Staff believes that the applicant has submitted substantial evidence in the form of information and plans for operation of the religious use, and that the proposal will satisfy the applicable standards for approval of a conditional use permit.

Staff has prepared the following list of recommended conditions based on substantial evidence and which may be applied to ensure the use meets the applicable standards for approval and the purposes of the ordinance. Please note that the conditions may need to be changed or additional conditions added to address potential nuisances that may come to light during the public hearing.

1. The conditional use permit shall be for religious uses.
2. The use and operation of the facility shall comply with the site plan and operations plan (application narrative), as submitted.
3. Any existing or proposed structure used as a place of assembly must meet applicable building code requirements.
4. Outside loudspeakers are prohibited.
5. Suitable sanitary facilities shall be made available to congregants.
6. Signage shall be limited to one, unlighted ground sign.

**AUGUST 26<sup>th</sup> ZLR MEETING:** The Committee postponed action due to lack of town action and public opposition. The neighbors expressed concerns regarding the unknown intensity of the project, road safety, adequate septic system, driveway access, adequate parking, dust created by vehicle movement, noise, light, and potential water supply issues.

**TOWN:** The Town Board has approved the conditional use permit with various conditions regarding lighting, parking, sanitary facilities, and building safety.

**STAFF UPDATE:** The applicant has submitted additional material in order to address the concerns raised at the public hearing.

Intensity of the activity: The primary activity on the property will be on the weekends between 10am to 7pm. Approximately 30 parishioners will come to the property for religious functions. Majority of the activity will be indoors. Outdoors activities will be located on the east side of the property consisting of occasional communal meals, outdoor worship, and possibly a small outdoor market a few times a year.

Road Safety: The temple will produce very low volumes of traffic with any increase occurring on the weekends. The traffic load is anticipated to be an additional 26 vehicles on Rinden Road. The posted speed in the area is 45 mph. The private driveway will be widened to 18 feet to accommodate the vehicular movement. County Staff and Town Public Works feel that there will be no significant impact to road safety.

Adequate Septic System: The existing septic system is in compliance with Sanitary Regulations. The system is capable of accommodating the anticipated employees on-site. The applicant will rent a porta-potty for gathering and events.

Driveway access and parking: The applicant has submitted plans to widen the driveway and create a parking area in the front yard, south side of the residence. The parking area will be a gravel surface. The parking area will be illuminated with two 12-foot light poles. The house and existing landscaping provide adequate screening for the parking area and lighting.

Dust, noise, and lighting: The applicant has provided detailed information on the activity levels that are proposed for the property. It appears that the activities will be rather passive and similar to a family gathering. Staff is suggesting that a condition be placed on the CUP to prohibit loudspeakers on the property to address noise concerns.

Water supply issues: The property is served by a residential well. No high-capacity wells are planned. The activity level will not impact the groundwater level.

Staff believe that the applicant has submitted additional substantial evidence in order to show that the proposed religious land use will meet the standards of obtaining a conditional use permit. The Town of Pleasant Springs has reviewed the proposed religious use and found that the proposal will meet the CUP standards if the conditions listed below are adhered to.

1. The applicant/landowner shall adhere to the activities as described on the site plan and operational information that was submitted as part of this conditional use permit. The information is dated December 12, 2019 with Exhibit A and D dated December 17, 2019. Any changes to the activities will require this conditional use permit to be revised and approved by the Town and the County.
2. The use of outdoor loudspeakers is prohibited.
3. The driveway expansion, as shown on the submitted plans, shall be installed within one year of the issuance of the conditional use permit.
4. The applicant shall meet with the Town of Pleasant Springs to review the conditional use permit in one year from the date of approval.
5. This Conditional Use Permit shall terminate upon the sale of the property.
6. The installation of the parking lot shall comply with the plans submitted dated December 17, 2019 and the Dane County zoning regulations.
7. The applicant/landowner shall provide adequate sanitary facilities in accordance with Chapter 46, Dane County Code of Ordinances. The existing onsite wastewater sewage disposal system shall be inspected by a licensed plumber to determine the suitability of the system for the proposed use. Suitable sanitary facilities shall be made available to congregants.
8. All buildings used as part of this conditional use permit shall meet the current requirements of the applicable sections of the Wisconsin Commercial Building Code or the Uniform Dwelling Code. Any existing buildings used for a place of assembly shall meet the requirement of the Wisconsin Commercial Building Code.
9. Signs on the property shall comply with the Dane County Sign Regulations.
10. The users of the conditional use permit shall adhere to the standard conditions for all conditional use permits as set forth under Dane County Code of Ordinances Section 10.101(7)(d)2.a.